

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**DONALD WILSON,**

Petitioner,

v.

**CIVIL ACTION NO. 3:05-CV-102  
(BAILEY)**

**EVELYN SEIFERT and  
JIM RUBENSTEIN,**

Respondent.

**JUDGMENT ORDER**

By Standing Order entered on March 24, 2000, and filed in this case on October 4, 2005, this action was referred to United States Magistrate Judge James E. Seibert for submission of proposed report and a recommendation ["R & R"]. Magistrate Judge Seibert filed his R & R on February 27, 2007 [Docket 17]. In that filing, as amended in the March 7, 2007 R & R [Docket 18], the magistrate judge recommended that this Court grant Respondent's motion to dismiss [Docket 13] Petitioner's 28 U.S.C. § 2254 writ of habeas corpus action and to deny the habeas petition as moot.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); ***Snyder v. Ridenour***, 889 F.2d 1363, 1366 (4<sup>th</sup> Cir. 1989); ***United States v. Schronce***, 727 F.2d 91, 94 (4<sup>th</sup> Cir. 1984). Here, objections to Magistrate Judge Seibert's R & R were due by March 13, 2007 pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). No

objections have been filed.

The Court adopts the recommendations of Magistrate Judge Seibert. Accordingly, the Court hereby **GRANTS** Respondent's Motion to Dismiss and **DENIES** as moot Petitioner's application under 28 U.S.C. § 2254 for writ of habeas corpus. The Court further **ORDERS** that this matter be **DISMISSED** from the Court's docket.

The Clerk is directed to mail a certified copy of this Judgment Order to all counsel of record, the plaintiff, pro se, and Magistrate Judge Seibert.

DATED: April 27, 2007

/s/ John Preston Bailey  
JOHN PRESTON BAILEY  
UNITED STATES DISTRICT JUDGE